

THE HONORABLE JOHN C. COUGHENOUR
SPECIAL MASTER PETERSON

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VERITAS OPERATING CORPORATION,
a Delaware corporation,

Plaintiff,

v.

MICROSOFT CORPORATION,
a Washington corporation

Defendant,

CASE NO. 2:06-cv-00703-JCC

**JOINT CLAIM CONSTRUCTION
AND PRE-MARKMAN HEARING
STATEMENT**

MICROSOFT CORPORATION,
a Washington Corporation,

Counterclaim Plaintiff and
Counterclaim Defendant,

v.

VERITAS OPERATING CORPORATION,
a Delaware Corporation, VERITAS SOFTWARE
CORPORATION, a Delaware Corporation,

Counterclaim Defendants and
Counterclaim Plaintiffs.

JOINT CLAIM CONSTRUCTION AND PRE-MARKMAN
HEARING STATEMENT (2:06-cv-00703) - 1

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JOINT CLAIM CONSTRUCTION AND PRE-MARKMAN HEARING STATEMENT

Pursuant to the Court's Order of January 18, 2007 setting the pretrial and trial schedule, Veritas Operating Corporation and Veritas Software Corporation ("Veritas") and Microsoft Corporation ("Microsoft") submit the following Joint Claim Construction and Pre-Markman hearing Statement (including specific citations to intrinsic and extrinsic evidence) regarding United States Pat. No. 5,469,573 (the '573 patent) and United States Pat. No. 5,588,147 (the '147 patent). In addition to the specific citations herein to the intrinsic evidence, the parties reserve the right to rely during the claim construction process on the entirety of the '573 and '147 patent specifications, claim language and publicly available correspondences to and from the U.S. Patent Trademark Office. The parties also reserve the right to rely upon the entirety of transcripts of depositions taken in this case by March 1, 2007.

I. '573 PATENT

The following exhibits pertain to the '573 patent claim construction proceedings:

- Exhibit A: Constructions of the claim terms, phrases, or clauses in the '573 patent on which the parties agree.
- Exhibit B: A chart of Veritas' proposed constructions of disputed terms and citations to intrinsic and extrinsic evidence for the disputed terms of the '573 patent
- Exhibit C: A chart of Microsoft's proposed constructions of disputed terms and citations to intrinsic and extrinsic evidence for the disputed terms of the '573 patent.
- Exhibit D: A copy of the '573 patent.
- Exhibit E: A copy of the '573 patent file history (including two of the cited references).
- Exhibit F: Copies of Veritas' extrinsic evidence.

- Exhibit G: Copies of Microsoft's extrinsic evidence.

II. '147 PATENT

The following exhibits pertain to the '147 patent claim construction proceedings:

- Exhibit H: constructions of the claim terms, phrases, or clauses in the '147 patent on which the parties agree.
- Exhibit I: A chart of Microsoft's proposed constructions of disputed terms and citations to intrinsic and extrinsic evidence for the disputed terms of the '147 patent
- Exhibit J: A chart of Veritas' proposed constructions of disputed terms and citations to intrinsic and extrinsic evidence for the disputed terms of the '147 patent.
- Exhibit K: A copy of the '147 patent.
- Exhibit L: A copy of the '147 patent file history.
- Exhibit M: Copies of Microsoft's extrinsic evidence.
- Exhibit N: Copies of Veritas' extrinsic evidence.

III. THE ANTICIPATED LENGTH OF TIME NECESSARY FOR THE CLAIM CONSTRUCTION HEARING

The parties anticipate that the Claim Construction Hearing for the disputed terms, scheduled to take place on April 25 and 26, 2007, will take one to two full days.

IV. WHETHER ANY PARTY PROPOSES TO CALL ONE OR MORE WITNESSES, INCLUDING EXPERTS, AT THE CLAIM CONSTRUCTION HEARING

At this time, the parties are conferring as to whether they intend to call any witnesses at the Claim Construction hearing. It is anticipated that they will discuss this matter further upon completion of the depositions of the parties' respective claim construction experts, and in accordance with the Scheduling Order.

Submitted this 16th day of February, 2007.

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